



February 25, 2005

SENATE BILL No. 171

DIGEST OF SB 171 (Updated February 22, 2005 1:02 pm - DI 106)

Citations Affected: IC 6-1.1; noncode.

Synopsis: Delinquent personal property taxes. Requires a creditor that acquires and transfers personal property on which the creditor holds a lien and on which personal property taxes have been adjudicated delinquent to pay all or part of the delinquency from the proceeds of the transfer according to a formula that apportions the proceeds between the lien amount and the delinquency. Allows a creditor to deduct from the proceeds of the transfer any direct, out-of-pocket expenses that the creditor incurs for the repossession, maintenance and disposition of the personal property before applying the formula and paying the delinquent personal property taxes.

Effective: July 1, 2004; January 1, 2006.

Lawson C

January 4, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

February 3, 2005, reported favorably — Do Pass.

February 14, 2005, read second time, amended, ordered engrossed.

February 15, 2005, engrossed; call withdrawn; pursuant to Senate Rule 65(b) reassigned to Committee on Judiciary.

February 24, 2005, amended, reported favorably — Do Pass.

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SB 171—LS 6826/DI 52+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 171

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-23-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 1. (a) Annually,
3 after November 10th but prior to August 1st of the succeeding year,
4 each county treasurer shall serve a written demand upon each county
5 resident who is delinquent in the payment of personal property taxes.
6 The written demand may be served upon the taxpayer:
7 (1) by registered or certified mail;
8 (2) in person by the county treasurer or the county treasurer's
9 agent; or
10 (3) by proof of certificate of mailing.
11 (b) The written demand required by this section shall contain:
12 (1) a statement that the taxpayer is delinquent in the payment of
13 personal property taxes;
14 (2) the amount of the delinquent taxes;
15 (3) the penalties due on the delinquent taxes;
16 (4) the collection expenses which the taxpayer owes; and
17 (5) a statement that if the sum of the delinquent taxes, penalties,

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and collection expenses are not paid within thirty (30) days from the date the demand is made then:

(A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or

(B) a judgment may be entered against the taxpayer in the circuit court of the county.

(c) Subsections (d) through (g) apply only to personal property that:

(1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

(2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and

(3) had an original cost of at least three thousand two hundred dollars (\$3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

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STEP SIX: Multiply the STEP ONE amount by the STEP FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

(1) the name and address of the debtor; and

(2) a specific description of the personal property described in subsection (d);

when requesting a delinquent personal property tax form.

(f) The delinquent personal property tax form must be in a form prescribed by the state board of accounts under IC 5-11, and must require the following information:

(1) The name and address of the debtor as identified by the creditor.

(2) A description of the personal property identified by the creditor and now in the creditor's possession.

(3) The assessed value of the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(4) The amount of delinquent personal property taxes owed on the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(5) A statement notifying the creditor that IC 6-1.1-23-1 requires that a creditor, upon the liquidation of personal property for the satisfaction of the creditor's lien, must pay in full the delinquent personal property taxes owed on the personal property in the amount identified on this form from the proceeds of the liquidation before the proceeds of the liquidation may be applied to the creditor's lien on the personal property.

(g) The county treasurer shall provide the delinquent personal property tax form described in subsection (f) to the creditor not

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1 later than fourteen (14) days after the date the creditor requests
2 the delinquent personal property tax form. The county and
3 township assessor shall assist the county treasurer in determining
4 the appropriate assessed value of the personal property and the
5 amount of delinquent personal property taxes owed on the
6 personal property. Assistance provided by the county and township
7 treasurer must include providing the county treasurer with
8 relevant personal property forms filed with the assessor and
9 providing the county treasurer with any other assistance necessary
10 to accomplish the purposes of this section.

11 SECTION 2. [EFFECTIVE JULY 1, 2004] IC 6-1.1-23-1, as
12 amended by this act, applies only to property taxes first due and
13 payable after December 31, 2005.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 171 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 1.

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SENATE MOTION

Madam President: I move that Senate Bill 171 be amended to read as follows:

Page 2, line 8, delete "For" and insert "**Except as provided in subsection (d), for**".

Page 2, between lines 15 and 16, begin a new paragraph and insert:

"(d) The creditor may deduct from the proceeds of the transfer of the personal property any direct, out-of-pocket expenses that the creditor incurs for the repossession, maintenance, and disposition of the personal property described in this section before paying the delinquent personal property taxes to the county treasurer. In order to deduct these expenses, the creditor must provide documentation supporting the direct, out-of-pocket expenses to the county treasurer with the payment for the delinquent personal property taxes."

(Reference is to SB 171 as printed February 4, 2005.)

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REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that, Engrossed Senate Bill 171 which is currently eligible for third reading and was ordered to engrossment on February 14, 2005, has been returned from engrossment and reassigned to the Committee on Judiciary.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 8 through 28, begin a new paragraph, and insert:

"(c) Subsections (d) through (g) apply only to personal property that:

(1) is subject to a lien of a creditor imposed under an agreement entered into between the debtor and the creditor after June 30, 2005;

(2) comes into the possession of the creditor or the creditor's agent after May 10, 2006, to satisfy all or part of the debt arising from the agreement described in subdivision (1); and

(3) had an original cost of at least three thousand two hundred dollars (\$3,200).

(d) For the purpose of satisfying a creditor's lien on personal property, the creditor of a taxpayer that comes into possession of personal property on which the taxpayer is adjudicated delinquent in the payment of personal property taxes must pay in full to the county treasurer the amount of the delinquent personal property taxes determined under STEP SEVEN of the following formula from the proceeds of any transfer of the personal property made by the creditor or the creditor's agent before applying the proceeds to the creditor's lien on the personal property:

STEP ONE: Determine the amount realized from any transfer of the personal property made by the creditor or the creditor's agent after the payment of the direct costs of the transfer.

STEP TWO: Determine the amount of the delinquent taxes, including penalties and interest accrued on the delinquent taxes as identified on the form described in subsection (f) by the county treasurer.

STEP THREE: Determine the amount of the total of the unpaid debt that is a lien on the transferred property that was perfected before the assessment date on which the delinquent taxes became a lien on the transferred property.

STEP FOUR: Determine the sum of the STEP TWO amount and the STEP THREE amount.

STEP FIVE: Determine the result of dividing the STEP TWO amount by the STEP FOUR amount.

STEP SIX: Multiply the STEP ONE amount by the STEP

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FIVE amount.

STEP SEVEN: Determine the lesser of the following:

(A) The STEP TWO amount.

(B) The STEP SIX amount.

(e) This subsection applies to transfers made by a creditor after May 10, 2006. As soon as practicable after a creditor comes into possession of the personal property described in subsection (c), the creditor shall request the form described in subsection (f) from the county treasurer. Before a creditor transfers personal property described in subsection (d) on which delinquent personal property taxes are owed, the creditor must obtain from the county treasurer a delinquent personal property tax form and file the delinquent personal property tax form with the county treasurer. The creditor shall provide the county treasurer with:

(1) the name and address of the debtor; and

(2) a specific description of the personal property described in subsection (d);

when requesting a delinquent personal property tax form.

(f) The delinquent personal property tax form must be in a form prescribed by the state board of accounts under IC 5-11, and must require the following information:

(1) The name and address of the debtor as identified by the creditor.

(2) A description of the personal property identified by the creditor and now in the creditor's possession.

(3) The assessed value of the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(4) The amount of delinquent personal property taxes owed on the personal property identified by the creditor and now in the creditor's possession, as determined under subsection (g).

(5) A statement notifying the creditor that IC 6-1.1-23-1 requires that a creditor, upon the liquidation of personal property for the satisfaction of the creditor's lien, must pay in full the delinquent personal property taxes owed on the personal property in the amount identified on this form from the proceeds of the liquidation before the proceeds of the liquidation may be applied to the creditor's lien on the personal property.

(g) The county treasurer shall provide the delinquent personal property tax form described in subsection (f) to the creditor not later than fourteen (14) days after the date the creditor requests

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the delinquent personal property tax form. The county and township assessor shall assist the county treasurer in determining the appropriate assessed value of the personal property and the amount of delinquent personal property taxes owed on the personal property. Assistance provided by the county and township treasurer must include providing the county treasurer with relevant personal property forms filed with the assessor and providing the county treasurer with any other assistance necessary to accomplish the purposes of this section.

SECTION 2. [EFFECTIVE JULY 1, 2004] IC 6-1.1-23-1, as amended by this act, applies only to property taxes first due and payable after December 31, 2005."

and when so amended that said bill do pass.

(Reference is to SB 171 as reprinted February 15, 2005.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 2.

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